

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
Roanoke Division**

Kevin Johnson

Petitioner

vs.

Action No. 7:10-cv-00415

Tracy S. Ray, et al

Respondent.

NOTICE

This case is before the Court pursuant to respondents' Motion to Dismiss

filed February 10, 2011 . The Court will give petitioner twenty-one (21) days from the date of this Notice to submit any further counter-affidavits or other relevant contradicting, explaining, or avoiding respondents' evidence. Both sides are advised that if documents or affidavits outside the pleadings are submitted by either party, any motion(s) to dismiss under Rule 12(b)(6) of the Federal Rules of Civil Procedure may be considered as motion(s) for summary judgment under Rule 56 of the Federal Rules of Civil Procedure. If petitioner believes that he has already provided sufficient support for his claims, he need not submit any additional response to respondent's motion unless he chooses to do so.

Issued and mailed this 11 day of February , 2011 .

JULIA C. DUDLEY, CLERK

By: s/ T. Taylor

Deputy Clerk